

2

The amendments made to the specification are clearly indicated in the attachment entitled "Version with Markings to show changes made to the Specification".

### IN THE CLAIMS

Please amend claims 1, 2 and 5 as follows:

1. (amended) A promoter for regulating expression of foreign DNA of interest in transgenic plant, which comprises a promoter having a sequence selected from the group consisting of sequences set forth in SEQ ID NOS:1 to 3, wherein said promoter is operably linked to said foreign DNA of interest for expression of said foreign DNA of interest.
2. (amended) The promoter of claim 1, wherein said promoter is activated for transcriptional expression of said foreign DNA of interest by presence of light.
5. (amended) The promoter of claim 1, wherein said plant is a dicot, a monocot or a gymnosperm.

The amendments made to the claims are clearly indicated in the attachment entitled "Version with Markings to show changes made to the Claims".

### REMARKS

Claims 1, 2, 5, 9 and 10 are still in the application and under examination. Claims 3 and 4 have been deleted from the application.

### SPECIFICATION

According to paragraph IV of the Office Action, the version of the application in our hands does not contain an incorporation by reference mentioning a serial number. Therefore, Examiner must have in his file another version of the application. We respectfully request the Examiner to send us a copy of his version so as to enable us to bring corrections to the specification.

### REJECTION UNDER 35 U.S.C. § 112, 2<sup>nd</sup> paragraph

Claims 1 to 5 and 9 and 10 have been rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject